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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,503	09/28/2006	Hidehori Komatsumoto	Q97008	3650
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EXAMINER				
PAPPAS, PETER				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/594,503

Applicant(s)

KOMATSUMOTO, HIDENORI

Examiner

PETER-ANTHONY PAPPAS

Art Unit

2628

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Said claim fails to fall within one of the four statutory categories of invention. Supreme Court precedent¹ and recent Federal Circuit decisions² indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, a process for displaying an image representative of a picture of an object viewed from a viewpoint in a virtual 3D space comprising determination, movement and displaying steps is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine.

¹ *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

² *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following claim elements are means (or step) plus function limitations that invoke 35 U.S.C. 112 sixth paragraph: claims 1 and 6 – “...means for calculating distance data...”, “...means for determining at least one of moving distance and a moving speed...”, “...means for moving the object...”; claim 2 – “...means for determining size information...”, “...means for enlarging or reducing the object...” While the written description discloses a system and respective structure for said system (e.g., p. 8, ll. 25, to p. 9, ll. 15; Fig. 1) the written description fails to clearly link or associate the disclosed structure, material or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material or acts performed the claimed function.

Applicant is required to: (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112 sixth paragraph; or (b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or (c) State on the record where the corresponding structure, material, or acts are set forth in the written description of

the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP 2181 and 608.01(o).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(a) as being anticipated by Kamiwada et al. (U.S. Pub. No. US 2004/0141014 A1).

7. In regard to claim 1 Kamiwada et al. teach an image processing device (e.g., Fig. 2) for displaying an image representative of a picture of an object viewed from a viewpoint in a virtual 3D space where the object (e.g., observation point 403) and the viewpoint are placed ("FIG. 15 is a diagram showing a display example of the three-dimensional data browsing screen. FIG. 16A through FIG. 16D are diagrams showing examples of changes of a three-dimensional data browsing screen in a case of approaching the viewpoint to the information object." – p. 3, ¶¶ 40, 41; "An observation point 403 shows a location to be observed on the information object within a current view of the user. It should be noted that the observation point 403 is a intersection of a center line of the view and the target surface." – p. 4, ¶¶ 68, 71 Figs. 4B, 11, 12A, 13, 15, 16A-16D).

Kamiwada et al. teach a distance data calculation means (e.g., view determining part 104) for calculating distance data concerning the object (e.g., observation point

403) and the viewpoint (“...the movement distance d of the observation point T is calculated. That is, the view determining part 104 calculates the movement distance d by giving the movement direction vector t obtained in the step S124 to the view movement calculating part 107. The view movement calculating part 107 calculates the movement distance of an observation point according to the distance of the viewpoint $V0$ and the observation point T ...” – p. 6, ¶ 101).

Kamiwada et al. teach: moving state determination means (e.g., view movement calculating part 107) for determining a moving distance (e.g., movement distance) of the object (e.g., observation point 403) in the virtual 3D space, based on the distance data (p. 6, ¶ 101); object moving means (e.g., view determining part 104) for moving the object in the virtual 3D space based on the moving distance of the object, which is determined by the moving state determination means (“...the view determining part 104 searches for a point which moves only by the distance d in the positive direction t along the target surface from the current observation point T as a new observation point T ...” – p. 6, ¶ 102).

Kamiwada et al. teach image displaying means (e.g., display image generating part 105) for displaying an exaggerated (e.g., enlarged/zoom-in) image representative of a picture of the object moving in the virtual 3D space viewed from the viewpoint (“In the conventional three-dimensional display controlling apparatus, the single three-dimensional shape can be displayed, rotated, and partially enlarged in a window of the browser.” – p. 1, ¶ 7; “Accordingly, it is possible to automatically select the information object to be observed and other information objects to display based on a location

relationship of the link information and the scale ratio in response to the movement direction such as ... zoom-in, or zoom-out direction.” – p. 2, ¶ 17; “In FIG. 16A showing information showing the entire information objects 2031 through 2035 on the three-dimensional data browsing screen 2030, when the viewpoint approaches along the information object 2034 being the sphere, the information object 2034 being the sphere is enlarged so that information 2036 becomes visible.” – p. 10, ¶ 165).

8. In regard to claim 2 Kamiwada et al. teach a size information determination means (e.g., view movement calculating parts 107) for determining size information indicative of a size of the object placed in the virtual 3D space, based on the distance data (“When the zoom-in operation is conducted, the viewpoint infinitely approaches the observation point 403 on the target surface 401 along the movement path 411. Moreover, when the zoom-out operation is conducted, the viewpoint moves so as to distance far from the target surface along the movement path 411...” – p. 4, ¶ 70; Figs. 16A-16D).

Kamiwada et al. teach a object enlargement and reduction means (e.g., information object displaying part 108) for enlarging (e.g., zoom-in) the object according the size information determined by the size information determination means, wherein the image displaying means displays an image representative of a picture of the object enlarged viewed from the viewpoint in the virtual 3D space (“Furthermore, when the viewpoint focuses on and approaches the information 2036 of the information object 2034 being the sphere, the information 2036 is displayed at the center of the three-dimensional data browsing screen 2030, enlarged while the information object 2034

being the sphere, and then, the information 2036 and the information object 2034 being the sphere are displayed in the entire screen as shown in FIG. 16C. When the viewpoint further approaches toward the information 2036, the information 2036 is enlarged as shown in FIG. 16D, so as to see what the information 2036 looks like.” – p. 10, ¶ 165; Figs. 16A-16D).

9. In regard to claim 3 Kamiwada et al. teach wherein the distance data is data indicative of a distance between a position associated with the object (e.g., observation point 403) and a position of the viewpoint (the rationale disclosed in the rejection of claim 1 is incorporated herein).

10. In regard to claim 5 the rationale disclosed in the rejection of claim 1 is incorporated herein. It is noted that said system is considered to perform a respective method.

11. In regard to claim 6 The rationale disclosed in the rejection of claim 1 is incorporated herein. Kamiwada et al. teach a computer readable data storage medium for causing a computer to perform the respective claim limitations (p. 2, ¶s 20, 25; p. 4, ¶s 64, 65; claims 7, 16).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiwada et al. (U.S. Pub. No. US 2004/0141014 A1), as applied to claims 1-3, 5 and 6, in view of Moran et al. (U.S. Patent No. 5, 880, 743).

14. In regard to claim 4 Kamiwada et al. teach the use of objects with predetermined sizes (p. 3, ¶ 57). It is noted that a "predetermined size" is a size which is determined as some point prior to the use of said size. However, Kamiwada et al. fail to explicitly teach wherein the size information determination means determines a rate by which the object is enlarged as the size information of the object based on the distance data, and the object enlargement and reduction means enlarges the object having a predetermined size by the rate. Moran et al. teaches a method and system for animating graphic information (Abstract), wherein changes made to an object or objects are gradual at a visually apparent rate ("Whether the selection is freeform and/or structured, the system animates both the change to the selected object or group of objects, such as movement to a new location or expansion/shrinking, and the changing of the characteristics such as position or size of the other object or group of objects on the screen which accompany such a change. The objects are shown as changing gradually at a visually apparent rate, rather than changing instantaneously." – col. 20, ll. 33-40).

It would have been obvious to one skilled in the art, at the time of the Applicant's invention, to incorporate the teaching of Moran et al. into the system taught by Kamiwada et al., because such incorporation would provide a visual presentation that is more pleasing to the eye as transitions (e.g., such as zooming in or zooming out) would

be gradual rather than instantaneous as instantaneous changes may appear too abrupt to some viewers.

Response to Arguments

15. The prior objection to the IDS has been withdrawn after further consideration.
16. Applicant's remarks with respect to the rejection of claims under Ellson et al. and Hubrecht et al. have been considered but are moot in view of the new ground(s) of rejection. Applicant is directed to the respective above rejections.
17. In response to Applicant's remarks against the references individually (e.g., Moran et al.) it is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER-ANTHONY PAPPAS whose telephone number is 571-272-7646. The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ulka Chauhan can be reached on 571-272-7782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter-Anthony Pappas/
Primary Examiner, Art Unit 2628